APPENDIX

The following is the complete statement on the seamen's exemption made by Ralph Emerson, legislative representative of the National Maritime Union, in the hearings on the Fair Labor Standards Act before the Joint Congressional Committees (Joint Hearings before Senate Committee on Education and Labor and House Committee on Labor on S. 2475 and H. R. 7200, 75th Cong., 1st Sess., pp. 544-549):

The Chairman: Mr. Emerson, we have you listed as the legislative representative of the National Maritime Union.

Mr. Emerson: Yes, sir.

The Chairman: All right, you may proceed.

Mr. Emerson: Mr. Chairman and gentlemen, my name is Ralph Emerson. I am the legislative representative of the National Maritime Union of America, comprising a membership of over 50,000 merchant seamen of the Atlantic and Gulf coasts.

I am also appearing here on behalf of the American Radio Telegraphists Association.

In appearing on behalf of the seamen it is not our intent to go into a detailed analysis of this proposed legislation. The seamen are heartily in accord with the general provisions of this bill, but we feel that some tightening up is needed of some of the clauses, so that their intent will be made more specific. Interpretation of the bill in its present form would give the proposed Labor Standards Board general wide powers in regard to all labor.

At this point I would like to introduce in the record a resolution passed by our union:

> Whereas the general purpose of the Black-Connery bill, embodying President Roosevelt's wage-and-hour program, are good ones:
>
> *Be it resolved by the Deck and Engine and Stewards Division of the National Maritime Union in the port of New York,* That we support S. 2475 and H. R. 7200, the Black-Connery bill, with the following changes and amendments:

They are short amendments, and I will list them.

On page 4 of S. 2475, in subsection (8), that this subsection be amended to exclude the words "employee representation committee or plan." We feel that the inclusion of those words would legalize company unions.

Representative Connery: May I interrupt you there? In my bill I struck that out—in the Connery bill.

Mr. Emerson: I am reading from S. 2475.

Representative Connery: The Senate bill?

Mr. Emerson: Yes.

Representative Connery: I intended to confer with the Senator on that before it slipped my mind. I do not know what the Senator's attitude is, but I think it will probably go out of his bill, too.

Mr. Emerson: Yes. Now, on page 6, line 5, that the exceptions under the definition of "strikebreaker" be omitted; and we would like those exceptions omitted, since we feel, then, as regards the maritime industry, that ship scabs would not be included in the term. That is the way they have it listed there. In other

words, in case of a strike that the shipping interests could not use scabs in place of union labor.

Now, on page 14, that is clause (3)—and it is both on pages 14 and 16—in clause (3), that the word "primarily" be inserted after "consider".

Representative Connery: Where is that? What page?

Mr. Emerson: That is page 14.

The Chairman: Lines 19 and 20.

Mr. Emerson: Lines 19 and 20. We would like the word "primarily" inserted there, so that union contracts shall provide the minimum wage and hour standards.

On page 19, lines 14 to 17, inclusive, that this section be omitted in the case of the seamen, or that provision be made to give us protection, since the steamship owners could then deduct from our wages for our meals and sleeping quarters.

Of course, as you know, in the maritime industry, in the case of the seamen specifically, that at sea we have no choice but to accept from the company meals and sleeping quarters along with our wages. It would be impossible to have a different set-up in that case, but we feel the interpretation of this bill in its present form might discriminate against us.

The Chairman: I would just like to ask a question in that connection. I would like to make this clear: Do the seamen now get their board and lodging as a part of the pay or do they fix their wage scale exclusive of the board and lodging?

Mr. Emerson: Well, there has never been any specific rule for that except it has always been included,

because our standard of wages has been so far below other standards; naturally we have had to have our board and lodging, and no deductions have ever been made for it.

Now, on page 29, line 6, that the words "as far as practicable" be struck out, so that the advisory committee will have union men only representing labor.

That is the extent of the amendments offered by this resolution passed at the meeting in New York.

I have a few further recommendations to make from the general membership, which are included in my statement.

While there is no doubt in our minds that the intent of the bill is to raise labor standards to a fair level, and while it is also the intent of this bill to raise those standards among workers in mills, factories, and other branches of industry which could be classed as productive, we feel that in a general interpretation of the whole bill that the way has been left open for the proposed Labor Standards Board to have jurisdiction over those classes of workers who are engaged in transportation. While this may not have an unfavorable effect upon the workers engaged in transportation by water, we feel that it may conflict with the laws now in effect regarding the jurisdiction of the Government machinery now set up to handle these problems.

On page 3, of S. 2475, section 2, subsection (2), lines 9 to 12 "'interstate commerce' means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof or within the District of Columbia." Now, our interpretation of the words "and any place outside thereof" would imply that this means foreign

commerce, and this would, of course, include all carriers by water and the employees of such carriers. Also all commerce carried interstate by water would affect the coastwise shipping lines and their employees. If it is not the intent of this proposed legislation to place this interpretation upon this bill, then it would not so vitally affect the seamen. I think it would be in order for a legal interpretation to be given this paragraph so that our position could be defined definitely. If it is the intent of this bill that the proposed Labor Standards Board shall have jurisdiction over all labor and all industry, then we would find it necesary to offer the following amendment:

This amendment would be in the nature of an addition. I refer to page 40, section 22, and this would be a new paragraph (c). It would read as follows:

> That no provision of this act or of any regulation or order thereunder shall supersede or in any manner revoke or impair the present jurisdiction of the Maritime Commission over merchant seamen as defined in Public Act No. 835, Seventy-fourth Congress, title III, section 301: "*Provided, however,* That this shall not prevent the Labor Standards Board from establishing a minimum fair wage and a maximum workweek standard for merchant seamen which will be higher than that standard established by the Maritime Commission."

Representative Connery: May I interrupt you there?

Mr. Emerson: Yes, sir.

Representative Connery: Did you read section 22 on page 39, which reads:

> No provision of this act or of any regulation or order thereunder shall supersede, or justify noncompliance with any Federal or State law or municipal ordinance regulating or prohibiting the employment of minors or establishing a minimum wage higher than a minimum wage established under this act or a maximum work-week lower than a maximum work-week established under this act, or otherwise regulating the conditions of employment in any occupation and not in conflict with a provision of this act or a regulation or order thereunder.

Mr. Emerson: That is right.

Representative Connery: In other words, your Maritime Commission would be taken care of there.

Mr. Emerson: Well, I have taken this matter of the interpretation of this bill up with several people and they seem to think that the proposed Labor Standards Board well might have jurisdiction in this case.

Representative Connery: Under these bills they cannot interfere with any law which sets a shorter work-week or higher minimum wage.

Representative Thomas: Does the Maritime Act attempt in any way to regulate hours and wages?

Mr. Emerson: It is a small section of the act that refers to the Maritime Commission's jurisdiction over merchant seamen. This is from the Merchant Marine Act of 1936:

> The Commission is authorized and directed to investigate the employment and wage conditions in oceangoing shipping and, after making such investigation and after appropriate hearings to

incorporate in the contracts authorized under titles VI and VII of this act minimum-manning scales and minimum-wage scales and reasonable working conditions for all officers and crews employed on all types of vessels receiving an operating-differential subsidy.

Representative Thomas: Thank you.

The Chairman: I did not quite get the recommendation with reference to that. Would your organization prefer to continue under the Maritime Commission rather than to be included in this law? Have your seamen any position on that?

Mr. Emerson: The position is—some people might say we want our cake and we want to eat it at the same time because while we want to go along under the jurisdiction of the Maritime Commission we feel, however, if the Labor Standards Board established a higher standard, then we would like to get any benefits which might accrue from this, although we feel that the Maritime Commission is going to do a good job as regards the merchant marine.

Representative Connery: In other words, you want double protection.

Mr. Emerson: This is simply a protective clause; yes, sir.

As this newly formed Maritime Commission has jurisdiction at present, over seamen in regard to wages, working conditions, and manning scale on subsidized merchant ships, and as we have every faith in the ability and competency of the Commission to handle our affairs, we feel that for the present time that that jurisdiction should not be hampered or impaired by any

legislation that would be conflicting. However, we do not care to isolate ourselves from any benefits which could be accrued by this bill. As it is only in the recent past that the seamen, through organized efforts, have managed to have their standards of wages and living conditions raised, we feel that on page 12, part 2, section 4, paragraph (c) that caution should be observed by this committee in giving the proposed board the power to lower labor standards so that in no case should those standards be lowered to an extent that would deprive us to the gains we have already made. In fact the seamen feel that any revision of wage scales for the maritime workers for some time to come should be upward as we have long been amongst that class of workers who were underpaid and overworked.

Now, I would like to say something in regard to the maximum work-week. Under the best of union conditions in the maritime industry as affecting the seamen it is impossible at the present time for us to work less than 56 hours a week. At sea we cannot stop work and just say, "Well, this is a holiday," because we have to keep on working at the rate of an 8-hour day, 7 days a week, and that certainly makes 56 hours, but with the minimum of even 40 hours I think satisfactory arrangement could be made whereby the other extra 16 hours could be considered as overtime, and with the wages of the maritime workers at the low standards, as they have always been, I do not think we would be getting any too much money in regard to wages, because we have always been underpaid.

As I say, it has only been recently, in the last year or two, that we have started to raise our standards. We still feel, as regards the seamen, that they are working under substandard labor conditions, because our wages certainly do not compare with the average

mechanic or shore worker, up to now.

In the matter of establishing a definite standard of a minimum wage and a maximum work-week, many advantages could accrue through this for the workers in certain industries, but then again this might not always apply to the workers in industry who have long-established and well-organized trade unions. It has always been the policy of the employer in industry where minimum wages have been established to keep the employees' wages down on a level as near the minimum as possible.

Now, on page 19, lines 14 to 17, inclusive, it states:

> Deductions for board, lodging, and other facilities furnished by the employer, if the nature of the work is such that the employer is obliged to furnish and the employee to accept such facilities.

Great care should be observed to minimize the activities of employers in sponsoring the use of "company house" and "company stores" where this situation is really unnecessary. This situation was brought out clearly before the La Follette Committee hearings in the case of the mine operators in Harlan County, Ky.

In that respect, it was shown clearly there that many of the workers were paid off in scrip and if they wanted cash for the scrip 20 per cent was deducted.

Also, many times, at the end of the week, by the time that the man had bought his supplies for the week at the company store, at the high rates prevailing there, that he had nothing left, that he used all his earnings to keep his family in existence, in groceries, and so forth. But, of course, that does not effect us only as regards the provision as I stated before.

As I say, we are in a position where we have to accept board and lodging, and an interpretation of this clause here gives the employer in the maritime industry the right to deduct for board and lodging.

Representative Connery: Pardon me. You notice that is not mandatory on the Board, the Board "may" do it, depending on the conditions.

Mr. Emerson: What we would like is an interpretation of the bill which would provide a protective clause for the seamen. If it is going to be the interpretation of the bill that transportation workers in general come under the jurisdiction of this Board then we would like to know it. I have never been able to find out yet as to whether the Board is going to have jurisdiction over us.

The Chairman: Do you not think it would be unwise to have two boards with jurisdiction over the same group?

Mr. Emerson: Yes, sir.

The Chairman: Which would you prefer?

Mr. Emerson: We would prefer the Maritime Commission.

The Chairman: You would prefer the Maritime Commission?

Mr. Emerson: Yes, sir.

Representative Ramspeck: Mr. Emerson, getting back to this board and lodging, if you were charged for the board and lodging on the ships, of course you would want higher wages than you have now?

Mr. Emerson: That is absolutely necessary. If we had to pay for board and lodging we would have practically nothing left.

Representative Connery: Right there your idea is that board and lodging is one thing, do you not?

Mr. Emerson: Yes, sir.

Representative Connery: You bargain for that for a starter, that you get decent food, and then after that your wage scale is entirely separate?

Mr. Emerson: Entirely separate. You see, it would be impossible to do otherwise. We have to accept it.

In regard to the use of child labor, the seamen have always felt that this evil should be corrected and we believe that the inclusion of this problem in this bill is proper and fitting and should be made an integral part of this proposed legislation if it is enacted into law. In general, we feel that with a tightening up of various parts of this proposed bill and its enactment into law, that not only would labor have much to gain, but that in time industry as a whole in this country would be favorably affected.

That is all I have to say, gentlemen.

The Chairman: Thank you very much. I might say, so far as I am individually concerned, I believe it would be improper to have a conflict or jurisdiction between two boards. I would not want to have divided jurisdiction. I would want one that had complete authority. I do not believe that bill, as written, covers the seamen, although there may be a question about it.

Mr. Emerson: Well, that interpretation of "interstate commerce" would certainly take in the carriers in interstate commerce and their employees.

The Chairman: Thank you.